



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

May 11, 1948

Hon. Glendon Roberts  
County Attorney  
Bandera County  
Bandera, Texas

Opinion No. V-566

Re: The authority of the  
Commissioners' Court  
to apportion the auto-  
mobile registration  
receipts equally  
among the four com-  
missioners' precincts  
of the county.

Dear Sir:

Your request for an opinion from this office  
on the above subject matter is, in part, as follows:

"By order of the Commissioners' Court of  
Bandera County, made on July 14, 1947,  
the automobile registration fees retain-  
ed by the County as part of its county  
road and bridge fund under Article 6675a-  
10, V.A.T.S., were divided equally between  
the four precincts of this county. The  
Commissioner of Precinct No. 1 of this  
county, as well as a great number of the  
residents of this precinct, object to  
this manner of apportionment of these  
funds among the precincts on the grounds  
that Precinct No. 1 has the greatest need  
of the funds, having more road mileage,  
more traffic, requiring more maintenance,  
than the other precincts, and further that  
most of such fees are collected from au-  
tomobiles belonging to residents of Pre-  
cinct No. 1 . . .

"In Bandera County, the needs of the coun-  
ty with respect to maintenance of roads  
greatly exceed the amount available in the  
county road and bridge fund, and there is  
no way in which the needs of any of the  
precinct can be met, regardless of how  
the funds are divided. However, it is

generally agreed that there is a much greater need and necessity for these funds in Precinct No. 1 than in any of the other precincts in this county.

"Under the above circumstances, can the Commissioners Court divide the automobile registration fees equally between the four precincts in this county, regardless of the fact that there is a greater need for same in Precinct No. 1?"

It was held in the case of *Stovall v. Shivers* (Comm. of App.), 103 S.W.(2d) 363, that as to that portion of fees provided for in Article 6675a-10, V. C. S., it is expressly provided how same shall be expended, and for that reason Article 6740 has no application to same.

Article 6675a-10, V. C. S., provides, in part:

" . . . None of the monies so placed to the credit of the Road and Bridge Fund of a county shall be used to pay the salary or compensation of any County Judge or County Commissioner, but all said monies shall be used for the construction and maintenance of lateral roads in such county under the supervision of the County Engineer, if there be one, and if there is no such engineer, then the County Commissioners' Court shall have authority to command the services of the Division Engineer of the State Highway Department for the purpose of supervising the construction and surveying of lateral roads in their respective counties. All funds allocated to the counties by the provisions of this Act (Arts. 6675a-1 to 6675a-14; P. C. Art. 807a) may be used by the counties in the payment of obligations, if any, issued and incurred in the construction or the improvement of all roads, including State Highways of such counties and districts therein; or the improvement of the roads comprising the County Road system."

The purpose as stated in Article 6675a-10 is the construction and maintenance of lateral roads or payment of obligations incurred in the construction or

improvement of all roads in the county. We quote the following from Stovall v. Shivers, supra:

" . . . By article 2342 of the Revised Statutes, it is provided that the several commissioners, together with the county judge, shall compose the 'commissioners court.' Such court is manifestly a unit, and is the agency of the whole county. The respective members of the commissioners court are therefore primarily representatives of the whole county, and not merely representatives of their respective precincts. The duty of the commissioners court is to transact the business, protect the interests, and promote the welfare of the county as a whole. Among the powers conferred upon such court by article 2351 are the following: The power to lay out and establish, change and discontinue roads and highways, the power to build bridges and keep them in repair, and the power to exercise general control over all roads, highways, ferries, and bridges in their counties. They have the power to levy a tax not to exceed 15 cents on the \$100 valuation for roads and bridges. This fund is, of course, for the benefit of all roads and bridges of the county. These provisions of the law, as well as others which might be mentioned, clearly contemplate that the commissioners court of each county shall regard the roads and highways of the county as a system, to be laid out, changed, repaired, improved, and maintained, as far as practical, as a whole to the best interests and welfare of all the people of the county. It is clearly contemplated that all roads and bridges of the county shall be maintained, repaired, and improved when necessary, as the conditions may require, regardless of the precinct in which same may be located, so far as the funds will equitably justify. This being true, we think that a commissioners court cannot voluntarily disable itself from performance of their general obligation by arbitrarily dividing the road and bridge fund according to some

fixed standard, and apportioning same to be expended in a particular precinct, to the detriment of roads and bridges in other precincts." (Emphasis ours)

We quote the following from Attorney General's Opinion No. 0-1091:

"As for that portion of the county road and bridge fund consisting of automobile registration fees paid into the fund of article 6675a, section 10, is controlling. It is our opinion that in expending this portion of the fund for the purposes expressly set out in section 10 of article 6675a, the commissioners' court of the county shall regard the roads and highways of the county as a system to be built, improved and maintained as a whole to the best interests and welfare of all the people of the county and of all the precincts of the county."

It was held in Attorney General's Opinion No. 0-3378 that the Commissioners' Court is not authorized to allocate the automobile registration fees to the various precincts in an apportionment which would result in one precinct being able to maintain a better class of roads and highways than other precincts.

You stated in your letter that "it is generally agreed that there is a much greater need and necessity for these funds in Precinct No. 1 than in any of the other precincts in this county." We, of course, cannot pass on that fact issue. But assuming that to be correct, it is our opinion in view of the foregoing, that the Commissioners' Court of Bandera County should not divide the automobile registration fees equally between the four precincts of the county. On the contrary, these fees should be expended in such a manner as to give to the county as a whole a uniform system of roads and highways without reference to precinct lines. This responsibility rests with the Commissioners' Court and must be determined by it in accordance with all the facts and circumstances involved. This opinion is not to be construed as passing on the fact questions relative to the needs of the county as a unit.

Hon. Glendon Roberts, page 5 (V-566)

SUMMARY

That portion of the County Road and Bridge Fund consisting of automobile registration fees paid into the fund should be expended in such a manner as to give the county as a whole a uniform system of roads and highways without reference to precinct lines. Such fees should not be divided arbitrarily in equal parts between the four precincts of the county.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *John Reeves*  
John Reeves  
Assistant

JR:mv

APPROVED:

*Fagan Dickson*  
FIRST ASSISTANT  
ATTORNEY GENERAL